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COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

SARAH F.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN  
DIEGO COUNTY,

Respondent;

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY,

Real Party in Interest.

D060984

(San Diego County  
Super. Ct. No. NJ14133A-B)

PROCEEDINGS for extraordinary relief after reference to a Welfare and Institutions Code section 366.26 hearing. S. Patricia Spear. (Retired Judge of the Los Angeles Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.)  
Petition denied. Request for stay denied.

Sarah F. seeks writ review of juvenile court orders terminating reunification services regarding her children, Brooklyn F. and Ryan R., and setting a hearing under Welfare and Institutions Code<sup>1</sup> section 366.26. She contends substantial evidence does not support the court's finding she was provided with reasonable reunification services. We deny the petition.

### FACTUAL AND PROCEDURAL BACKGROUND

In June 2009 the San Diego County Health and Human Services Agency (the Agency) petitioned on behalf of two-month-old Ryan under section 300, subdivisions (a) and (b), alleging Sarah had left him unattended on a table and he fell to a tile floor and was injured. It petitioned on behalf of one-year-old Brooklyn under section 300, subdivision (j), alleging she was at risk because of the abuse or neglect of Ryan. The children were detained with Cynthia and Steven D. (the D.'s).<sup>2</sup> The court later declared both children to be dependents of the court and returned them to Sarah's care. Sarah's services plan included counseling, parenting education and a drug abuse assessment.

In December 2009 the Agency filed supplemental petitions under section 387, alleging Sarah had been in possession of drug paraphernalia and had engaged in domestic violence with Timothy. The court ordered the children detained and placed with the D.'s. It ordered Sarah would have supervised visits and reunification services and added a

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<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

<sup>2</sup> At the time it was believed the D.'s were Ryan's paternal grandparents. It was later determined that their son, Timothy R., is not Ryan's biological father.

psychological evaluation, substance abuse treatment and domestic violence treatment to her case plan. It granted the D.'s request for de facto parent status.

At the six-month review hearing, which concluded in November 2010, the court ordered services to continue to the 12-month date. The court ordered visits would be unsupervised and added drug court, drug abuse aftercare, random drug tests and therapy that would include domestic violence treatment to Sarah's case plan.

In February 2011 the court granted Sarah's section 388 petition to order the D.'s to stop tracking her with a global positioning system (GPS) during unsupervised visits. It granted the Agency's petition to require Sarah's visits be supervised because she had not complied with drug court requirements or started an aftercare program, and she had had difficulty supervising Ryan during visits. In March the court ordered visits unsupervised again.

In June 2011 the social worker recommended continuing services to the 18-month date. Sarah had successfully completed a day treatment program and was encouraged to attend aftercare. She had been going to Narcotics Anonymous meetings, consistently visiting and was scheduled to move into a housing program. However, in August the Agency changed its recommendation. Sarah had stopped participating in aftercare, she cancelled some therapy appointments and visits, and she was arrested on an outstanding warrant.

In August minor's counsel petitioned under section 388, requesting visitation be supervised again. The court made a prima facie finding on the petition, granted an evidentiary hearing and made an interim order for supervised visitation. Sarah's counsel

then moved to disqualify the judge, and the judge recused himself from further proceedings. Meanwhile, Sarah lost her job and her housing, she admitted smoking marijuana and cancelled therapy appointments and she did not appear for drug court.

Numerous witnesses testified at the 12-month hearing. The social worker testified he was aware of friction between Sarah and the D.'s. The D.'s were interested in adoption, but the goal was reunification. He said Sarah had been very upset when she found a GPS device in the diaper bag, and the Agency agreed the D.'s had acted inappropriately. The social worker testified that in January 2011, Sarah's therapist had recommended she be in a more structured program before engaging in therapy. The social worker determined she should be in a dual diagnosis program. In May he provided her with a new list of therapists. He testified the therapist's recommendation had been a major factor in his filing the section 388 petition for visits to be supervised, and, at that time, there were concerns about whether Sarah was in drug treatment.

An Agency manager, who supervised the social worker's supervisor, testified that generally it is easier to achieve reunification if a child's caregivers support the child's return to parental custody, and if they don't encourage reunification, the child may be removed from the home. The supervisor testified if there was any indication the caregivers were interfering with reunification, the social worker needed to assess the situation and speak with the caregivers and the parent.

Mrs. D. testified she had sewn a GPS device into the diaper bag that Sarah and the children's nannies used. She said its purpose was to help find the children if something

went wrong. She said early in the case she supported the children's return to Sarah, but after June 2010 she was less optimistic that this could happen.

Sarah testified she was upset when she found the GPS device in the diaper bag, and she had not wanted the D.'s to know where she lived because she had restraining orders against their son. She said at one visit, Mrs. D. told her she (Mrs. D.) was Ryan's real mother, and sometimes she had to pull Ryan out of Mrs. D.'s arms to take him on a visit. Sarah said she did not graduate from drug court because she relapsed into drug and alcohol use at the end of September 2011, but after her relapse she acquired a new sponsor, transferred to Alcoholics Anonymous and had not used any illegal substances since then.

After considering the evidence and argument by counsel, the court found Sarah had received reasonable reunification services, but return to her custody would cause a substantial risk of detriment. It terminated services and set a section 366.26 hearing.

Sarah petitions for review of the court's orders. (§ 366.26, subd. (l); Cal. Rules of Court, rule 8.452.) This court issued an order to show cause, the Agency responded and the parties waived oral argument.

## DISCUSSION

Sarah contends substantial evidence does not support the finding she was provided with reasonable reunification services. She argues because the Agency, minor's counsel and the D.'s placed impediments on her ability to complete her case plan, the court erred by making a finding of reasonable services.

A reviewing court must uphold a juvenile court's findings and orders if they are supported by substantial evidence. (*In re Amos L.* (1981) 124 Cal.App.3d 1031, 1036-1037.) "[W]e must indulge in all reasonable inferences to support the findings of the juvenile court [citation], and we must also ' . . . view the record in the light most favorable to the orders of the juvenile court.' " (*In re Luwanna S.* (1973) 31 Cal.App.3d 112, 114.) The appellant bears the burden to show the evidence is insufficient to support the court's findings. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

In determining the sufficiency of reunification services, the role of the appellate court is to decide "whether the record discloses substantial evidence which supports the juvenile court's finding that reasonable services were provided or offered." (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) A service plan must take into account the specific needs of the family. (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) The standard is not that the best possible services were provided, but that reasonable services were provided under the circumstances. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

Substantial evidence supports the court's finding Sarah was provided reasonable reunification services. Sarah did not show that others got in the way of her ability to reunify. Rather, it was her own actions that led to her not reunifying with Brooklyn and Ryan.

The evidence did not show the D.'s interfered with Sarah's reunification efforts. The social worker testified that after the episode with the GPS device in November 2010, he was not aware of any actions taken by the D.'s to impede Sarah's ability to reunify.

People who were present at visitations said there were no indications the D.'s interfered with visits in any way. One of the children's nannies said she spoke positively about Sarah when it was time for the children to see her and never suggested to them that they did not have to go on a visit. She said the D.'s said the children were always to go on visits unless they were ill. A visitation supervisor said when she arrived to pick up the children they were always ready to go on visits and were cooperative. The maternal grandfather testified when he transported the children for visits, the D.'s were always cooperative and accommodating.

Sarah lost the opportunities she had to reunify by relapsing into drug and alcohol use and not taking advantage of all the services she was offered. The Agency referred Sarah to individual therapy, parenting education, a psychological evaluation, drug court, aftercare substance abuse treatment, a 12-step program, domestic violence treatment and housing assistance, and the social worker tried to accommodate her school schedule.

However, Sarah did not consistently participate in services. She took parenting education classes in 2009 before being dropped for inconsistent attendance, and then took more classes while in residential treatment. She made progress in residential treatment, but missed days of treatment while she was incarcerated, and then was terminated for violating program policies, and transferred to another program. In March 2010 she entered a sober living program, then began outpatient treatment at another program until she was discharged for excessive absences and for not meeting with the treatment coordinator. She was then discharged from another sober living facility, and then another, where she had tested positive for methamphetamine. It was recommended she

attend aftercare after she completed a dual diagnosis program, but she dropped out of aftercare. It was Sarah's own actions, not impediments thrown in her way by others, that caused her not to be successful with her services plan. The record shows she was provided with reasonable reunification services.

#### DISPOSITION

The petition is denied. The request for stay is denied.

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BENKE, J.

WE CONCUR:

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McCONNELL, P. J.

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McDONALD, J.